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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,580	01/15/2004	Phillip C. Harris	2003-IP-011105U1	5915

7590 08/19/2005

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EXAMINER
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FULLER, BRYAN A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/758,580

**Applicant(s)**

HARRIS ET AL.

**Examiner**

Bryan A. Fuller

**Art Unit**

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-14 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1 - 4, drawn to a reduced friction fluid, classified in class 507, subclass 219.
  - II. Claims 5 - 10, drawn to a method of fracturing or treating a subterranean formation, classified in class 166, subclass 308.1.
2. The inventions are distinct, each from the other because:
3. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product can be used in gravel packing processes, or in the treatment, consolidation, or stabilization of surface soil.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. During a telephone conversation with Robert Kent on 8/11/2005 a provisional election was made with out traverse to prosecute the invention of Group II claims 5 - 14. Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 1 - 4 are withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 5 – 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Parris et al (6,011,075).

With respect to claims 5 – 7 and 10 - 12: Parris et al teaches in column 1, line 12 – column 7, line 15 a method of fracturing or treating a subterranean formation comprising the steps of: providing a reduced friction fracturing fluid comprising an aqueous liquid, carbon dioxide, and a polymer comprising acrylamide and an acrylamide copolymer derivative; and, placing the reduced friction fracturing fluid into a subterranean formation at a pressure sufficient to create or extend at least one fracture therein. Additionally, the reference teaches a method wherein the polymer comprises from about 10-85% acrylamide and from about 15-90% of an acrylamide copolymer derivative, and more specifically wherein the polymer comprises 20-60% acrylamide and from about 40-80% of an acrylamide copolymer derivative.

With respect to claims 8 and 13: Parris et al teaches in column 4, line 60 – column 5, line 18 a method wherein the polymer further comprises acrylic acid.

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With respect to claims 9 and 14: Parris et al teaches in column 1, lines 57 – 63 and in column 3, lines 31 – 51 a method wherein the reduced friction fracturing fluid further comprises proppant or particulates.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Boney et al (US 2003/0106690) and Van Phung et al (4,728,696) both teach methods of fracturing or treating a subterranean formation with a reduced friction fluid.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan A. Fuller whose telephone number is (571) 272-8119. The examiner can normally be reached on M - Th 7:30 - 5:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian E. Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian E. Glessner  
Supervisory Patent Examiner  
Art Unit 3676

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